



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/960,587	09/21/2001	Kirk W. Skeba	42390P11693	5439
7590	05/25/2007		EXAMINER	
Mark L. Watson			GELIN, JEAN ALLAND	
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP			ART UNIT	PAPER NUMBER
Seventh Floor			2617	
12400 Wilshire Boulevard				
Los Angeles, CA 90025-1026				

MAIL DATE	DELIVERY MODE
05/25/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	09/960,587	SKEBA, KIRK W.
	Examiner	Art Unit
	Jean A. Gelin	2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 03 April 2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-15 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2617

DETAILED ACTION

1. This is in response to the Applicant's arguments and amendments filed on March 02, 2007 in which claims 1, 2, 7, and 8 have been amended, and claims 16-23 have been canceled. Claims 1-15 are currently pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe et al. (US 2002/0144134 A1) in view of Meyerson (US 6,976,251).

Regarding claim 1, Watanabe teaches a method comprising: receiving a first identification (ID) at a computer system from a server via a transmission medium (i.e., downloading a list of software to the radio on the basis of header (ID) software ([0058]-[0059] and [0067])); comparing the first ID with a second ID stored at a first analog front end coupled to the computer system (i.e., downloading software of the requested ID, and comparing a resultant code with the added code then use the software [0059]-[0061], the radio having an antenna to receive analog signal [0038]).

Watanabe further teaches receiving an ID request and downloading the requested ID corresponding to compare the received ID with ID stored in the server prior to downloading the ID. Furthermore, Watanabe teaches the software has been

Art Unit: 2617

approved and encrypted in a predetermined agency or approving the software for operation of the radio ([0052] and [0056]-[0059]. But Watanabe fails to specifically teach certifying a first analog front end (i.e., software-defined radio) for operation if the first ID matches the second ID.

However, the preceding limitation is known in the art of communications.

Meyerson teaches a comparison with updated software information and a list of software stored on the user's computer is made to determine if the software update should be automatically downloaded and installed (col. 2, line 62 to col. 3, line 24).

Meyerson further teaches intelligent update agent compares the stored user criticality threshold to the evaluated criticality from block 24 (col. 6, line 63 to col. 7, line 36).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to implement the technique of Meyerson within the system Watanabe in order that the user of the communication device will have the opportunity to set preferences as to what software updates should be automatically installed.

Regarding claim 2, Watanabe in view of Meyerson teaches all the limitations above. Meyerson further teaches disable the first analog front end (i.e., software defined radio) when the first identifier does not match the second identifier (i.e., within the selection of which software download based on identification, col. 2, line 24 to col. 3, line 44).

Regarding claim 3, Watanabe in view of Meyerson teaches all the limitations above. Watanabe further teaches to store the first identifier in a memory device (25,

figure 2) within the communication device prior to compare the first identifier with the second identifier ([0040]).

Regarding claim 4, Watanabe in view of Meyerson teaches all the limitations above. Watanabe further teaches downloading a protocol corresponding with the first software-defined radio (col. 5 line 62 through col. 6 line 2).

4. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe et al. (US 2002/0144134A1 hereinafter Watanabe) in view of Meyerson as applied in claim 1 above, and further in view of Paulsen et al. (US PAT. 6,055,575 hereinafter Paulsen).

Regarding claims 5-6, the combination of Watanabe and Meyerson differs from the claimed invention in not specifically teaching the first identifier and the wireless protocol being received as a component of a signed manifest so that the protocol at the baseband unit is executed if the manifest is validated. However, Paulsen teaches a virtual private network method for remote user to access a private network having a host to combine data with a header containing information about the protocol of the private data network, to encrypt the data and the header as a component of a signed manifest, and to transmit the encrypted data and the header over a secure communications path to the remote client, wherein the protocol is executed if the manifest is authenticated (col. 5 line 55 through col. 8 line 41). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the combination of Watanabe and Meyerson in receiving the first identifier and

Art Unit: 2617

the wireless protocol as the component of the signed manifest so that the protocol at the baseband unit is executed if the manifest is validated, as per teaching of Paulsen, in order to establish a secure communication in permitting an individual to access the private data network.

Allowable Subject Matter

5. Claims 8-15 would be allowable if rewritten or amended to overcome the Double Patenting rejection(s), set forth in the Office action mailed 12/01/05.

6. Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and overcome the Double Patenting rejection mailed on 12/01/05..

Response to Arguments

7. Applicant's arguments filed 03/02/07 have been fully considered but they are not persuasive.

As per claims 1-7, the Applicant describes most of the features of the applied art then recites the features of the claimed invention without showing the differences between the claimed invention and the applied arts. Therefore, Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that

Art Unit: 2617

the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. The rejection is made final.

The Applicant argues that a terminal disclaimer will be filed upon resolution of the prior art rejections. Therefore, the double patenting rejection recited in the previous Office Action mailed 12/01/05 is maintained.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean A. Gelin whose telephone number is (571) 272-7842. The examiner can normally be reached on 9:30 AM to 7:00 PM.

Art Unit: 2617

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on (571) 272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JGelin
May 22, 2007

JEAN GELIN
PRIMARY EXAMINER

Jean Allard Gelin